

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

\_\_\_\_\_  
STEVEN C. FUSTOLO, ) Chapter 7  
                          ) Case No. 13-12692-JNF  
Debtor.              )  
\_\_\_\_\_  
                          )  
THE PATRIOT GROUP, LLC, )  
                          )  
Plaintiff,           ) Adversary Proceeding  
                          ) No. 14 - \_\_\_\_\_-JNF  
v.                    )  
                          )  
STEVEN C. FUSTOLO, and )  
JOHN DOES 1-10,      )  
                          )  
Defendants.          )  
\_\_\_\_\_

**VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF**

**I. INTRODUCTION**

1. Beginning in the Spring of 2014 – nearly a year after the Chapter 7 Involuntary Petition in this case was filed – defendants began a systematic, malicious, and deliberate course of unlawful conduct designed to attack plaintiff's reputation and business as a means of intimidating plaintiff and related persons and influence the claims asserted in, and the outcome of, these bankruptcy proceedings. Defendants engaged in these attacks on plaintiff by fabricating accusations of tax and securities fraud by plaintiff and plaintiff's founder and chief executive officer and posting those fabrications on the Internet for world-wide consumption and also disseminating them through the U.S. mail. Defendants' cyber-bullying campaign and other

misconduct was intended to publicly humiliate, harass, threaten, and harm plaintiff and related persons.

2. Upon information and belief, Defendant Steven C. Fustolo, and others acting in concert with him, engaged in a clandestine and nefarious scheme designed to force Plaintiff The Patriot Group, LLC to withdraw its Objection to Discharge Pursuant to 11 U.S.C. §§ 523 and 727, to influence the prosecution and outcome of these bankruptcy proceedings, and to retaliate against plaintiff for its role in commencing this involuntary proceeding. To this end, Mr. Fustolo, or others acting at his direction, paid a Florida web designer to create a blog through which Mr. Fustolo published false, malicious, defamatory and untrue articles about plaintiff and its principal, John C. Howe. Metadata obtained from documents provided by the Florida web designer revealed that “Steve Fustolo” “authored” the defamatory materials. This, taken in conjunction with the substantial additional evidence described herein, leads to the unavoidable conclusion that Mr. Fustolo is the mastermind behind this cyber-bullying campaign.

3. In proceedings before this Court on December 3, 2014, Mr. Fustolo’s counsel represented that he had asked his client about his participation in the incidents of cyber-bullying detailed herein, and that Mr. Fustolo had denied any involvement. Evidence obtained by plaintiff, however, directly contradicts the position Mr. Fustolo has taken before this Court.

4. The unlawful conduct described herein is believed to involve multiple individuals, many of whose identities are as of yet unknown to plaintiff, located within the United States and abroad. By way of this action, plaintiff seeks, among other things, injunctive relief preventing Mr. Fustolo and those persons acting in concert with him from continuing to engage in acts of cyber-bullying and an order directing Mr. Fustolo and his minions to immediately remove the defamatory and untrue articles from the Internet.

## II. PARTIES AND OTHER INTERESTED PERSONS

5. Plaintiff The Patriot Group, LLC (Patriot) is a Delaware limited liability company with a place of business located at 1120 Post Road, Darien, Connecticut 06820. Patriot is a creditor of the Debtor with standing to assert the claims set forth herein.

6. Upon information and belief, Defendant Steven C. Fustolo is an individual residing at 110 Church Street, Winchester, Massachusetts 01890.

7. John C. Howe is a resident of Westport, Connecticut and Patriot's Chief Executive Officer.

8. Old Hill Partners Inc. (Old Hill) is a Delaware corporation with its principal place of business located at 1120 Post Road in Darien, Connecticut. Old Hill is an SEC-registered investment adviser with significant experience in all facets of asset-backed lending and alternative investment management. Mr. Howe is Old Hill's President and Chief Executive Officer. Old Hill is affiliated with other financial services companies including Patriot.

9. Upon information and belief, "Sloane" is a resident of the State of Florida and provides website and internet services. In an effort to discover the source of the cyber-bullying, Old Hill and Mr. Howe filed an action in The Circuit Court for the Seventh Judicial District In And For Miami-Dade County Florida in an action entitled, *Old Hill Partners, Inc. and John Howe v. John Doe*, Case No. 16-2014-CA-008673 (Florida Action). Sloane's identity was discovered in the Florida Action.

10. Based upon defendants' misconduct, as described below, Sloane is fearful of retaliation from defendants for providing information to plaintiff for use in this adversary proceeding. Accordingly, Sloane's true identity is not being disclosed at this time, but will be furnished to the Court upon the entry of an order protecting Sloane's identity, permitting the

information he provided through affidavit to be filed under seal, and safeguarding him and his family from any retaliation.

11. John Does 1-10 are individuals whose true identities are currently unknown to plaintiff. Upon information and belief, John Does 1-10 aided and abetted Mr. Fustolo in the unlawful cyber-bullying, harassment, and other tortious activities described herein as a means of intimidating and harassing plaintiff with respect to its claims asserted in these bankruptcy proceedings.

### **III. JURISDICTION AND VENUE**

12. On May 6, 2013 (Petition Date) the plaintiff and other creditors filed an involuntary petition for an order for relief against the Debtor under Chapter 7 of the Title 11 of the United States Code.

13. On December 16, 2013 (Order Date) the Court entered an order for relief adjudicating the Debtor a bankruptcy debtor as of the Petition Date (Order for Relief). (Dkt. No. 59).

14. On April 24, 2014, Patriot filed a Proof of Claim in these proceedings (Claim Reg. No. 5-1).

15. This Court has jurisdiction to hear and determine the merits of, and the issues raised in, this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief demanded herein are 11 U.S.C. §§ 105(a), 727 and 523.

16. Venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

#### IV. ALLEGATIONS OF FACT APPLICABLE TO ALL CLAIMS

##### Cyber Attack Number One

17. The attack on plaintiff began on May 9, 2014, when a lawyer representing Mr. Fustolo (Attorney Bruce Edmands) wrote to counsel representing Patriot (Attorney Michael Fencer), and copied various third-parties, advising that Mr. Fustolo had filed a “whistleblower” “claim” against Patriot with the Internal Revenue Service (IRS) and a corresponding “notice” of the claim with the Securities and Exchange Commission (SEC). According to the letter, Mr. Howe and Patriot – with advance knowledge of Mr. Fustolo’s intent to notify the IRS of Patriot’s “tax fraud” – preemptively commenced this involuntarily bankruptcy proceeding “as a means of retaliating against [Mr. Fustolo] for reporting Patriot’s tax violations.” In fact, neither Patriot nor Mr. Howe had any knowledge of the purported “whistleblower” claim until they received the May 9<sup>th</sup> letter, which is lacking any detail or description of the alleged “tax fraud.”

18. The cyber-bullying started on or about August 21, 2014 with a press release titled “Old Hill Partners and John Howe under IRS and SEC Investigation” posted on a press release website with the url [www.prnation.org](http://www.prnation.org), quickly followed on August 25, 2014 with an almost identical post titled “John C. Howe, Westport, Ct. Hedge Fund Executive Investigated for Tax Fraud and SEC Violations” on a blog hosted by Blogspot (a service owned by Google, Inc.) at the uniform resource locator (URL) [whistleblowersinternationalblog.blogspot.com](http://whistleblowersinternationalblog.blogspot.com) (WBI Blog), under the screen name “Ashley Martin.” In addition to Mr. Howe, the WBI Blog reported that Mr. Howe’s private hedge funds – Patriot and Old Hill – and other off-shore funds were also being investigated for tax fraud and SEC violations. A copy of this post is included in Exhibit A.

19. The WBI Blog made several false statements as follows:

- Mr. Howe and his funds were “being investigated by the Internal revenue Service (IRS) and Securities and Exchange Commission (SEC) for committing tax fraud and engaging in violations of the United States securities laws violations;”
- Mr. Howe and his funds “were tax cheats;”
- Mr. Howe and his funds had a “tax shortfall” of “at least \$2 million;” and
- In an effort to persuade debtor not to report the alleged violations to the IRS and SEC, Mr. Howe – with two other creditors – tried to “intimidate and retaliate against debtor by forcing debtor into bankruptcy.”

20. The WBI Blog concluded with a not-so-thinly-veiled threat against Mr. Howe and Patriot: “With the continued IRS pressure on private hedge funds, in general, and Mr. Howe’s alleged tax fraud, investors have to be concerned about what the impact of both IRS and SEC investigations might have on the viability of Mr. Howe’s private hedge funds.”

21. According to the WBI Blog, the “genesis” of the investigation was a “Boston whistleblower” who turned in Mr. Howe and his hedge funds to the IRS and the SEC. Upon information and belief, the so-called “Boston whistleblower” identified in the blog is Mr. Fustolo and the judicial proceedings described therein refer to this Chapter 7 case, which arose from Mr. Fustolo’s default on a commercial loan and the subsequent entry of a \$20 million judgment. (Dkt. Nos. 59, 60). To this end, the WBI blog states, in part, as follows:

According to court transcripts and other documents obtained by WBI, the [IRS/SEC investigation] started when Howe’s Patriot Group obtained a \$20 million judgment against a debtor who defaulted on a loan during the U.S.’s 2008 economic downfall. The debtor learned that Howe and his funds were tax cheats and informed Mr. Howe that he was going to report Howe and his funds to the IRS and SEC. According to court documents, Howe, in collaboration with two other creditors, tried to intimidate and retaliate against the debtor by forcing the debtor into bankruptcy.

22. The WBI Blog purported to be the home webpage of a legitimate international nonprofit organization, “Whistleblowers International” (WBI), displaying the slogan “protecting

the courageous against the lawless.” Plaintiff has been unable to identify or locate any actual organization named “Whistleblowers International,” or an actual person named “Ashley Martin” connected with such an organization. Plaintiff has likewise attempted to identify, locate and contact other persons allegedly quoted or named as contacts in the alleged press releases posted at [whistleblowersinternationalblog.blogspot.com](http://whistleblowersinternationalblog.blogspot.com), and have been unable to identify, locate or contact any of them.

### **Cyber Attack Number Two**

23. Approximately two weeks later, on or about September 11, 2014, there was a second post on the WBI Blog titled “Alleged Tax Cheat John C. Howe Bullies Whistleblower in Boston’s U.S. Bankruptcy Court.” *See Exhibit A.* In addition to continuing to tout the claim that Mr. Howe and Patriot were being investigated by the IRS and SEC for “tax fraud and United States securities laws violations,” the second post – which purported to be part of WBI’s “continuing” investigation of the “Boston whistleblower who is being attacked in the United States Bankruptcy Court” – made several false statements regarding Mr. Howe and Patriot including that they had “devised a clever and devious plan to retrieve the whistleblower information by abusing the U.S. Bankruptcy Code.” In support of this assertion, the WBI Bolg stated that Mr. Howe “failed to disclose his true intentions” when seeking permission to conduct a “2004 examination,” which debtor contends was an improper means of obtaining the information the debtor allegedly turned over to the IRS and SEC so that Mr. Howe could then use that information to “hide and conceal his alleged tax and securities frauds....”

24. These allegations are false. Neither Mr. Howe nor Patriot have committed the crimes or abuses ascribed to them by the fake announcements.

25. Plaintiff was able to obtain personally-identifying information related to the WBI

Blog, from Google, the entity that hosts the WBI Blog. Specifically, the web designer used the Internet Protocol Address (IP Address) to register the blog and create the defamatory postings. This IP Address is owned by Comcast Communications LLC (Comcast) and was used by Sloane, a Comcast subscriber who resides in Ponte Vedra Beach, Florida.

**Defendants' Cyber Attack Spreads on Paid Wire Release Services**

26. From August 21 – August 26, 2014, Mr. Fustolo and/or a person acting in concert with him went to the next stage of attack: releasing the same and similar false publications found on the WBI Blog, alleging to be from the “media contact” at WBI, through two paid news wire release services, “Press Release Nation” and “Release Wire.” These wire release services, in turn, disseminated these phony news releases defaming Mr. Howe and Patriot to websites and news services.

27. These releases, in addition to being wholly fraudulent as to their purported origin and sources, contained outrageously false and defamatory statements regarding Mr. Howe and Patriot, including, but not limited to:

- “Whistleblowers International (WBI), a nonprofit whistleblower advocate, announced today that filings made in Boston’s U.S. Bankruptcy Court indicate that Old Hill Partners, Inc., Patriot Group, LLC, affiliated private hedge funds and other entities, and its chief executive officer, John C. Howe, of Westport, Connecticut, are under IRS and SEC investigation for U.S. tax fraud and securities laws violations. According to court records obtained by WBI, a Boston whistleblower has turned Old Hill Partners, its predecessor Patriot Group, its affiliated funds, and Mr. Howe, personally into both the IRS and SEC, with filings to other agencies pending.”
- “Whistleblowers International (WBI) has announced that John C. Howe of Westport, Connecticut (USA), and his private hedge funds, Old Hill Partners and Patriot Group of Darien, Connecticut, are the subject of another SEC fraud investigation. The IRS is also investigating Mr. Howe and his funds for tax fraud.”
- “According to WBI, a Boston whistleblower, who was also a borrower of the Patriot Group, reported Mr. Howe and his funds to the SEC and IRS,

claiming they had committed tax fraud and violated U.S. securities laws. Subsequently, Mr. Howe forced the borrower into bankruptcy.”

- “The debtor alleges that Patriot forced the debtor into bankruptcy to harass the debtor and retaliate against him for his whistleblower filing.”

28. The foregoing allegations are false because sources referenced are completely fictitious, because plaintiff has not committed any tax or securities fraud and is unaware of any investigations of allegations that it committed any such offenses, and because plaintiff has never commenced any bankruptcy proceedings *after* a whistleblower filing by any borrower—although it did experience attempted intimidation by threat of “whistleblower” complaints to the IRS and SEC, in this bankruptcy action, which was already in progress almost a full year *before* such threats. Plaintiff has received no notification of any investigation from either the IRS or SEC.

29. The Press Release websites were successful in disseminating the cyber-attack across the Internet, and fraudulent publications can now be found at many URLs, including, but not limited to:

- <http://upandcomingmogul.com/john-c-howe-westport-resident-and-old-hill-partners-llc-investigated-for-tax-fraud-and-securities-law-violations-2/>
- <http://wetminded.com/john-c-howe-westport-resident-and-old-hill-partners-llc-investigated-for-tax-fraud-and-securities-law-violations-2/>
- <http://betterthentheyearsreturn.com/old-hill-partners-and-john-howe-under-irs-and-sec-investigation/>
- <http://www.freepressindex.com/john-howe-and-old-hill-partners-accused-of-harrassment-intimidation-and-retaliation-against-us-whistleblower-in-howes-tax-fraud-and-sec-fraud-case-561985.html>
- <http://beforeitsnews.com/business/2014/08/john-howe-and-old-hill-partners-accused-of-harrassment-intimidation-and-retaliation-against-u-s-whistleblower-in-howes-tax-fraud-and-sec-fraud-case-2650010.html>
- <http://youngtrendsetters.com/john-c-howe-westport-resident-and-old-hill-partners-llc-investigated-for-tax-fraud-and-securities-law-violations-2/>

- <http://www.artikel-presse.de/john-howe-old-hill-partners-accused-harrassment-intimidation-retaliation-u-s-whistleblower-howes-tax-fraud-sec-fraud-case.html>
- <http://uberfake.com/john-c-howe-westport-resident-and-old-hill-partners-llc-investigated-for-tax-fraud-and-securities-law-violations-2/>
- <http://rethinkingtaxes.com/john-c-howe-westport-resident-and-old-hill-partners-llc-investigated-for-tax-fraud-and-securities-law-violations-2/>
- <http://allthehobbies.com/john-howe-and-old-hill-partners-accused-of-harassment-intimidation-and-retaliation-against-u-s-whistleblower-in-howes-tax-fraud-and-sec-fraud-case/>

30. A similar post entitled “John Howe and Old Hill Partners Accused of Harassment, Intimidation and Retaliation Against U.S. Whistleblower” appeared on dates from August 21, 2014 through September 11, 2014, on the sites:

- [eupolitics.einnews.com](http://eupolitics.einnews.com)
- [digitaljournal.com](http://digitaljournal.com)
- [cbs46.com](http://cbs46.com)
- [fox5vegas.com](http://fox5vegas.com)
- [kctv5.com](http://kctv5.com)

31. Mr. Howe has also discovered that – on one or more occasions – copies of defamatory articles about him and his funds had been sent via U.S. Postal service to various of his neighbors and business associates. The defamatory statements published to an unknown number of third-parties on the Internet were thus additionally published to these persons by direct mail.

#### **Defendants’ Video Attacks And Use of Complaint Boards**

32. Beginning in or around late October 2014, defendant or persons acting in concert with him engaged in a new wave of attacks on Mr. Howe. More than two dozen videos appeared on the video sites [dailymotion.com](http://dailymotion.com), [youtube.com](http://youtube.com) and [vimeo.com](http://vimeo.com) commencing on or about

October 27, 2014 containing Mr. Howe's photograph and false accusations identical or similar to those first published on the WBI Blog.

33. An attempt to trace the IP Addresses from which the videos originated led to IP Addresses in Italy, indicating that others are acting in concert with defendant, as proxies or otherwise.

34. On or about October 28, 2014 and thereafter, defendant or his co-conspirator(s) began posting defamatory and harassing statements on consumer complaint boards including [www.complaintsboard.com](http://www.complaintsboard.com), [www.complaintwire.org](http://www.complaintwire.org), [www.complaints.com](http://www.complaints.com), [www.pissedconsumer.com](http://www.pissedconsumer.com) and [www.ripoffreport.com](http://www.ripoffreport.com), including the posts located at the following URLs, containing repetitions of the same false narrative found in the WBI Blog, and additional false statements, representative samples of which are set forth below:

Date	URL	False Statement(s)
10/28/2014	<a href="http://www.ripoffreport.com/r/John-C-Howe-Old-Hill-Partners-Inc/Darien-Connecticut-06820-/John-C-Howe-Old-Hill-Partners-Inc-John-C-Howe-Old-Hill-Partners-Inc-Patriot-Gro-1185552">http://www.ripoffreport.com/r/John-C-Howe-Old-Hill-Partners-Inc/Darien-Connecticut-06820-/John-C-Howe-Old-Hill-Partners-Inc-John-C-Howe-Old-Hill-Partners-Inc-Patriot-Gro-1185552</a>	“Be Extremely careful not to invest in John C Howe private hedge fund! Its a fraud under national and international investigation !”
10/28/2014	<a href="http://www.complaintsboard.com/complaints/john-c-howe-old-hill-partners-inc-private-hedge-fund-scam-c732360.html">http://www.complaintsboard.com/complaints/john-c-howe-old-hill-partners-inc-private-hedge-fund-scam-c732360.html</a>	“Fraud Warning: John C. Howe Old Hill Partners, Inc., Investigated for Tax Fraud and SEC Violations. BEWARE : Do not invest in John Howe private hedge fund, you will never see your money again.”

Date	URL	False Statement(s)
10/28/2014	<a href="http://www.ripoffreport.com/r/old-hill-partners-john-howe/darien-connecticut-06820/old-hill-partners-john-howe-john-c-howe-old-hill-partners-inc-patriot-group-llc-o-1185777">http://www.ripoffreport.com/r/old-hill-partners-john-howe/darien-connecticut-06820/old-hill-partners-john-howe-john-c-howe-old-hill-partners-inc-patriot-group-llc-o-1185777</a>	“A whistleblower advocacy group in Europe has also announced that a second whistleblower has come forward and will file claims against Mr. Howe alleging that he and other partners siphoned client funds to his personal accounts, and overcharged management fees to his investors. As one lawyer notes: ‘The optics in this case do not favor Mr. Howe- a private hedge fund manager. He may have committed tax fraud, violated securities law, and threatened and intimidated a debtor not to report him to the IRS and SEC. Then to top it off, there is a pending claim by a second whistleblower that Howe may have stolen client funds.’”
10/28/2014	<a href="http://complaintwire.org/complaint/pJ3jLFNd_Qo/old-hill-partners">http://complaintwire.org/complaint/pJ3jLFNd_Qo/old-hill-partners</a>	“A whistleblower advocacy group in Europe has also announced that a second whistleblower has come forward and will file claims against Mr. Howe alleging that he and other partners siphoned client funds to his personal accounts, and overcharged management fees to his investors.”
10/28/2014	<a href="http://complaintwire.org/complaint/SuvjzD1m_Qo/old-hill-partners-and-john-c-howe's-private-hedge-funds">http://complaintwire.org/complaint/SuvjzD1m_Qo/old-hill-partners-and-john-c-howe's-private-hedge-funds</a>	“This deteriorating situation at Old Hill Partners has lead [sic] some of Old Hill’s private investors to seek an exit from Mr. Howe’s funds in order to salvage their investment balance before the funds may implode.”
10/28/2014	<a href="http://complaintwire.org/complaint/Dc3iXKhD_Qo/john-howe-old-hill-partners-inc">http://complaintwire.org/complaint/Dc3iXKhD_Qo/john-howe-old-hill-partners-inc</a>	“scam artist John Howe”

Date	URL	False Statement(s)
10/29/2014	<a href="http://complaintwire.org/complaint/stTjdLlj_Qo/john-c-howe's-patriot-group-and-old-hill-partners">http://complaintwire.org/complaint/stTjdLlj_Qo/john-c-howe's-patriot-group-and-old-hill-partners</a>	“There are other possible charges against Mr. Howe for theft of client funds, and overcharging management fees to investors.”
10/29/2014	<a href="http://www.complaintsboard.com/complaints/john-c-howe-old-hill-partners-inc-old-hill-partners-and-its-private-hedge-funds-allegedly-defrauded-investors-c732486.html">http://www.complaintsboard.com/complaints/john-c-howe-old-hill-partners-inc-old-hill-partners-and-its-private-hedge-funds-allegedly-defrauded-investors-c732486.html</a>	“A whistleblower advocacy group in Europe has also announced that a second whistleblower has come forward and will file claims against Mr. Howe alleging that he and other partners siphoned client funds to his personal accounts, and overcharged management fees to his investors.”
10/29/2014	<a href="http://old-hill-partners.pissedconsumer.com/members-of-john-c-howe-s-patriot-group-and-old-hill-partners-may-be-complicit-in-mr-howe-s-alleged-tax-and-securities-frauds-20141102553226.html">http://old-hill-partners.pissedconsumer.com/members-of-john-c-howe-s-patriot-group-and-old-hill-partners-may-be-complicit-in-mr-howe-s-alleged-tax-and-securities-frauds-20141102553226.html</a>	“According to Sean Richards [an investment advisor], ‘The delisting of Patriot Group right before a major event is suspicious and may indicate that Patriot was concerned about the legal implications from the anticipated whistleblower’s filing. I have seen cases where a perpetrator delists to reduce SEC focus on a sensitive matter, such as securities law violations.’ Sean Richards continues: ‘By delisting and having a successor entity (Old Hill Partners, in this example), Patriot Group’s previous alleged fraud and SEC violations do not go away.’”

Date	URL	False Statement(s)
10/29/2014	<a href="http://complaintwire.org/complaint/BbYIzS5GAgS/old-hill-partners-john-c-howe-private-hedge-fund">http://complaintwire.org/complaint/BbYIzS5GAgS/old-hill-partners-john-c-howe-private-hedge-fund</a>	Another concern that Mr. Howe's private hedge fund investors have to consider is the penalties that the IRS can assess against Mr. Howe as the manager for negligence and tax fraud. Daniels observes, "Mr. Howe might try to pass along those penalties to the fund investors as normal operating expenses, even though the penalties may have been created due Mr. Howe's own negligence."
10/29/2014	<a href="http://complaintwire.org/complaint/vtNDg_bWBgs/jager-and-smith-john-c-howe-old-hill-partners">http://complaintwire.org/complaint/vtNDg_bWBgs/jager-and-smith-john-c-howe-old-hill-partners</a>	"WBI's Erik Nordenberg notes, 'Mr. Howe apparently has nine lives as he has yet to serve any prison time for his long string of controversial activities including taking investor funds for his personal use.' As WBI's Erik Nordenberg notes, 'Mr. Howe not only has a disregard for his partners and investors, but more sadly, he tramples on employees and others who are most vulnerable. What kind of man must Mr. Howe be if he preys on the most helpless people in our society? He violates natural law.'"
10/29/2014	<a href="http://www.complaintsboard.com/complaints/john-c-howe-mike-fencer-bruce-smith-jager-and-smith-fraudster-john-c-howe-tries-to-destroy-boston-whistleblower-in-bostonrsquos-bankruptcy-court-c733175.html">http://www.complaintsboard.com/complaints/john-c-howe-mike-fencer-bruce-smith-jager-and-smith-fraudster-john-c-howe-tries-to-destroy-boston-whistleblower-in-bostonrsquos-bankruptcy-court-c733175.html</a>	"The Fraud Report and this Editor have been following a U.S. tax and securities fraud case that I think will interest our readers. The case pins a wealthy Westport, Connecticut private hedge fund manager against a courageous whistleblower who accuses the hedge fund manager of committing securities and tax fraud."

Date	URL	False Statement(s)
10/29/2014	<a href="http://www.complaintsboard.com/complaints/peter-bergschneider-jacqueline-howe-jacqueline-howesquos-father-john-c-howe-is-investigated-for-tax-and-securities-fraud-c733949.html">http://www.complaintsboard.com/complaints/peter-bergschneider-jacqueline-howe-jacqueline-howesquos-father-john-c-howe-is-investigated-for-tax-and-securities-fraud-c733949.html</a>	“That second whistleblower has contacted WBI and announced he is planning a more expansive whistleblower filing against Mr. Howe to be filed by the end of 2014. That second whistleblower alleges that Mr. Howe and others engaged in an elaborate scheme to “siphon” client funds and overcharge fees to clients for Mr. Howe’s personal benefit.”
10/30/2014	<a href="http://old-hill-partners.pissedconsumer.com/">http://old-hill-partners.pissedconsumer.com/</a>	“Mr. Howe Coerces and Intimidates U. S. Web Sites to Remove Truthful and Damaging Articles Implicating Him in Tax and Securities Fraud. Whistleblowers International (WBI) has announced that it is under attack by alleged tax cheat John C. Howe and Old Hill Partners for WBI’s reporting about ongoing investigations into Mr. Howe’s alleged tax fraud and securities law violations, including the siphoning of private investor funds for Mr. Howe’s personal benefit.”
10/30/2014	<a href="http://old-hill-partners.pissedconsumer.com/john-c-howe-and-old-hill-partners-block-truthful-web-content-about-their-alleged-irs-and-sec-frauds-20141112556850.html">http://old-hill-partners.pissedconsumer.com/john-c-howe-and-old-hill-partners-block-truthful-web-content-about-their-alleged-irs-and-sec-frauds-20141112556850.html</a>	“John Howe Hires an Army of Web Consultants to Conceal Truthful and Damaging Web Content Against Him”
10/30/2014	<a href="http://www.complaintsboard.com/complaints/peter-bergschneider-pending-fraud-investigations-place-cloud-over-peter-bergschneiderrsquos-upcoming-wedding-c734031.html">http://www.complaintsboard.com/complaints/peter-bergschneider-pending-fraud-investigations-place-cloud-over-peter-bergschneiderrsquos-upcoming-wedding-c734031.html</a>	“If Mr. Howe is using stolen funds for the benefit of family members”

Date	URL	False Statement(s)
10/30/2014	<a href="http://complaintwire.org/complaint/BErH2j38HAs/davis-gilbert-llp-new-york">http://complaintwire.org/complaint/BErH2j38HAs/davis-gilbert-llp-new-york</a>	“[Plaintiff’s attorney] has been hired by tax cheat John C. Howe and Old Hill Partners to attack WBI and coerce media outlets to remove WBI’s articles and other published content focused on the tax and securities fraud investigations against John C. Howe and Old Hill Partners.”
10/30/2014	<a href="http://www.complaintsboard.com/complaints/jacqueline-howe-peter-bergschneider-fraudster-john-c-howe-pays-for-his-daughtersquos-wedding-with-funds-stolen-from-investors-and-the-irs-c734856.html">http://www.complaintsboard.com/complaints/jacqueline-howe-peter-bergschneider-fraudster-john-c-howe-pays-for-his-daughtersquos-wedding-with-funds-stolen-from-investors-and-the-irs-c734856.html</a>	“Fraudster John C. Howe, Pays for His Daughter’s Wedding with Funds Stolen from Investors and the IRS.”
11/5/2014	<a href="https://www.prnation.org/john-howe-and-old-hill-partners-accused-of-harassment-intimidation-and-retaliation-against-u-s-whistleblower-in-howes-tax-fraud-and-sec-fraud-case/">https://www.prnation.org/john-howe-and-old-hill-partners-accused-of-harassment-intimidation-and-retaliation-against-u-s-whistleblower-in-howes-tax-fraud-and-sec-fraud-case/</a>	“[T]he investigations could also expand to the funds’ various investors and officers, although details of the investigation are not known at this time, according to a representative of Whistleblowers International (WBI).”
11/12/2014	<a href="http://complaintwire.org/complaint/3VrWLFrr-wo/private-hedge-fund-owner-john-howe">http://complaintwire.org/complaint/3VrWLFrr-wo/private-hedge-fund-owner-john-howe</a>	“With the continued IRS pressure on private hedge funds, in general, and Mr. Howe’s alleged tax fraud, investors have to be concerned about what the impact of both the IRS and SEC investigations might have on the viability of Mr. Howe’s private hedge funds. “The investors also have to consider whether any IRS adjustments to Howe’s funds could directly spill over to the investors by triggering IRS audits of each individual investor” adds WBI’s Erik Nordenberg.”

Date	URL	False Statement(s)
11/12/2014	<a href="http://complaintwire.org/complaint/4r3k3CV7_Qo/patriot-group-llc-in-darien-connecticut">http://complaintwire.org/complaint/4r3k3CV7_Qo/patriot-group-llc-in-darien-connecticut</a>	“An investigation into tax and securities fraud committed by John Howe’s Connecticut private hedge funds should concern investors as they are exposed to millions in additional taxes, interest and fines.”
11/12/2014	<a href="http://complaintwire.org/complaint/SuvjzD1m_Qo/old-hill-partners-and-john-c-howe's-private-hedge-funds">http://complaintwire.org/complaint/SuvjzD1m_Qo/old-hill-partners-and-john-c-howe's-private-hedge-funds</a>	“Investors News has learned that additional charges may be made against Mr. Howe and his funds by a second whistleblower who claims to have evidence to implicate Mr. Howe, Old Hill and others in an elaborate scheme to skim investor funds for Mr. Howe’s personal benefit.”
11/19/2014	<a href="http://www.ripoffreport.com/r/john-c-howe-patriot-group-old-hill-partners-darien-connecticut-06820-/john-c-howe-patriot-group-old-hill-partners-john-c-howe-patriot-group-and-old-hil-1185795">http://www.ripoffreport.com/r/john-c-howe-patriot-group-old-hill-partners-darien-connecticut-06820-/john-c-howe-patriot-group-old-hill-partners-john-c-howe-patriot-group-and-old-hil-1185795</a>	“That person is John C. Howe, the majority owner of several hedge funds who, along with those funds, is under two investigations, one by the IRS for tax fraud, and the other by the SEC for securities law violations. “
11/19/2014	<a href="http://complaintwire.org/complaint/pcNDownVBgs/old-hill-partners-mr-john-howe-mike-fencer-bruce-smith-jager">http://complaintwire.org/complaint/pcNDownVBgs/old-hill-partners-mr-john-howe-mike-fencer-bruce-smith-jager</a>	“Whistleblowers International (WBI) reported that it was under attack by alleged tax cheat John C. Howe and Old Hill Partners for WBI’s reporting about ongoing IRS and SEC fraud investigations against Mr. Howe and his funds due to a whistleblower filing.
11/19/2014	<a href="http://www.complaintsboard.com/complaints/john-c-howe-old-hill-partners-john-c-howe-hedge-fund-scam-c732710.html">http://www.complaintsboard.com/complaints/john-c-howe-old-hill-partners-john-c-howe-hedge-fund-scam-c732710.html</a>	“An investigation into tax and securities fraud committed by John Howe’s Connecticut private hedge funds should concern investors as they are exposed to millions in additional taxes, interest and fines.”

35. Again, all of these allegations are false because the referenced sources are

complete fictions, because neither Mr. Howe nor his funds (including Patriot) have committed any tax, securities or other frauds (or received notice of any investigations of allegations that they committed any such offenses), and because neither Mr. Howe nor his funds have stolen any funds, trampled any rights, or committed any of the other alleged misdeeds.

**Defendants Target Mr. Howe's Wife, Daughter, Business Associates and Counsel**

36. In a post headed “Old Hill and John Howe defrauded its Investors” and allegedly posted by “Paul Newmann” on or about October 30, 2014, defendant or his co-conspirator(s) for the first time identified Mr. Howe’s wife by name and posted their home address. Such statements identifying Mr. Howe’s wife and directing threatening and harassing comments at her have continued to appear throughout the period since October 30 and as recently as December 4, 2014.

37. In a post titled “Members of John Howe’s Old Hill Partners may be complicit in Mr. Howe’s alleged crimes” and allegedly posted by “Gerard Lumpert” of “Luxembourg” at the URL [http://complaintwire.org/complaint/stTjdLlj\\_Qo/john-c-howe's-patriot-group-and-old-hill-partners](http://complaintwire.org/complaint/stTjdLlj_Qo/john-c-howe's-patriot-group-and-old-hill-partners), the defendant or his co-conspirator(s) began listing the names of employees (and former employees) and directors of Old Hill and/or affiliates and falsely accusing them of complicity in the “crimes” falsely alleged against Old Hill and Mr. Howe.

38. In a November 5, 2014 post titled “Private Hedge fund Manager, John Howe hires an army of web consultants to conceal truthful and damaging web content against him” at the URL <http://complaintwire.org/complaint/pcNDownVBgs/old-hill-partners-mr-john-howe-mike-fencer-bruce-smith-jager>, defendant or his co-conspirator(s) attached tags connecting the article in Internet search engines to Mike Fencer and Bruce Smith of Jager & Smith (Patriot’s counsel). Another post on the same date, titled “John C Howe and Old Hill Partners Fraud Cases – A long

history of illegal activities,” at the URL [http://complaintwire.org/complaint/vtNDg\\_bWBgs/jager-and-smith-john-c-howe-old-hill-partners](http://complaintwire.org/complaint/vtNDg_bWBgs/jager-and-smith-john-c-howe-old-hill-partners) actually claims to be posted by Old Hill’s counsel Mike Fencer and Bruce Smith, which was, of course, untrue.

39. In an ongoing series of phony “complaints” beginning on November 15, 2014 and continuing to the present, defendant or his co-conspirator(s) posted false allegations about and pictures of New York attorney Ina B. Scher, who assisted Mr. Howe and Patriot with steps to identify and stop the online defamation and harassment against them.

40. Beginning November 11, 2014 the defendant or his co-conspirator(s) began posting more and more personal information about the identities, locations, connections, birthdates and personal plans of Mr. Howe’s family, including the date and location for the wedding of his daughter and her fiancé, pictures of his daughter and her fiancé, and 9 videos of his daughter and her fiancé.

41. The extensive research that is obviously being conducted by a hostile and vengeful enemy of Mr. Howe into his family and their movements puts his family in fear, and causes him extreme mental anguish and emotional distress.

42. On November 12, 2014, defendant or his co-conspirator(s) posted a “complaint” on the Internet stating that the wedding of Mr. Howe’s daughter and her fiancé “might have a surprise visitor,” putting Mr. Howe’s family in fear of an intrusion into what should be a joyful family event by a malicious and perhaps violent interloper.

#### **Defendants Create WBI Blog To Influence Bankruptcy Proceedings**

43. In response to the cyber-attack against Mr. Howe, his family and his funds, Mr. Howe and Old Hill commenced the Florida Litigation against Defendant “John Doe.” Through

an investigation and discovery in that action, they learned information that demonstrates that the WBI Blog was created at the direction of and financed by Mr. Fustolo or persons acting in concert with him as a vehicle through which Mr. Fustolo could engage in cyber-bullying through the publication of false and defamatory articles about Mr. Howe, Patriot, and other funds as a means of intimidating Patriot from pursuing its claims in these bankruptcy proceedings.

44. Sloane provides website services and Search Engine Optimization. In such capacity, he advertises his services on the internet, including ads on the website, [www.craigslist.com](http://www.craigslist.com). Individuals contact Sloane through [www.craigslist.com](http://www.craigslist.com) requesting his services to design websites and post content on those websites.

45. In a sworn affidavit provided by Sloane in the Florida Action, he verified that, in or about July of 2014, he was contacted to create a blog at the request of a certain person who did not disclose his name. Sloane's client (Client) used a hushmail e-mail account and a phone number as his points of contact. The hushmail email address provided by the client as his point of contact was [fust@hushmail.com](mailto:fust@hushmail.com). Coincidentally, Mr. Fustolo's e-mail address is "fust@aol.com." The phone number provide by the Client was 781-879-5606. The telephone number was to a pre-paid cellular phone.

46. In a July 12, 20014 e-mail, the Client inquired whether Sloane could facilitate a "negative internet PR against individuals and businesses who may have attacked [client] either on or not on the internet? Example: distributing through the internet negative PR against an individual and/or company. I may have documents that are not on the internet that are negative to a 'bully' that I want to get on the internet in large volume."

47. The Client wanted to direct the content of his blog to sites that would not allow third-parties, especially the persons who were the subject of the blog, to respond or otherwise

rebut the content of the blog. The Client was also concerned about keeping his identity a secret. In an August 9, 2014 e-mail to Sloane, the Client stated, "I am keeping my name out of everything as I am referred to as the 'borrower' or 'debtor' I will prepare the blog drafts and we can discuss it further prior to implementation."

48. For the reasons described herein, it is apparent that the mastermind and person responsible for the false information posted on the WBI Blog was Mr. Fustolo. Information learned from Sloane reveals that Mr. Fustolo disseminated the false stories about Mr. Howe and his funds in an attempt to influence the claims asserted in, and the outcome of, these bankruptcy proceedings.

49. Using the information provided to him by his Client, Sloane created the WBI Blog. The Client was intimately involved in the creation of the blog and was particularly concerned that the blog look authentic. In an August 15, 2014 e-mail, the Client advised Sloane that the WBI Blog "need[ed]" a more professional logo than the whistle to have credibility."

50. All content Sloane posted on the WBI Blog was provided directly to him from his Client.

51. To register the WBI Blog, Sloane created an email address using the Google email service, gmail. This email address was whistleblowersint@gmail.com. The creation of this email address was at the direction of the Client. Sloane was the only person with access to this email.

52. To give the WBI Blog the appearance of a legitimate organization, in an August 21, 2014 e-mail, the Client directed Sloane to create "some sort of address for WBI (Rue de ...., Stockholm, Tel....)" In fact, the WBI was not an actual organization, but instead a fiction created by the Client to help facilitate the cyber-bullying described herein.

53. For services provided creating the WBI Blog, Sloane sent his Client an initial invoice in the amount of \$1,750, as reflected in an e-mail dated August 8, 2014. The Client arranged for this amount to be paid by a “friend” who sent money on the Client’s behalf to Sloane’s PayPal account. Sloane received confirmation from PayPal on August 12, 2014 that \$1,800 had been deposited into his account by “Jeffrey Zeisel” as reflected in an August 12, 2014 e-mail. Mr. Fustolo’s wife’s is employed by a person named Jeffrey Zeisel who, upon information and belief, has done business with Mr. Fustolo.

54. Sloane’s Client drafted and sent to him for publication the blogs that appeared on the WBI Blog on August 25 and September 11, 2014.

55. On August 21, 2014, Sloane’s Client e-mailed him a draft of the blog that was eventually released on August 25, 2014. The document attached to the e-mail was titled “Article\_1\_wbi.pdf”. A copy of the e-mail and the article, entitled “John C. Howe, Westport, Ct. Hedge Fund Investigated for Tax Fraud and SEC Violations” is attached as **Exhibit B**. Metadata in this document shows the name “Steven Fustolo” as “author” of the document. Patriot has located and identified several additional articles, documents, and press releases “authored” by “Steven Fustolo” and containing defamatory statements similar to those set forth in the WBI Blog.

56. E-mail communication between Sloane and his Client for the period July through October 2014 confirm the use of the defamatory articles about Mr. Howe, Patriot and his other funds as a means of influencing the outcome of these bankruptcy proceedings. A sample of relevant communications and corresponding events in the underlying proceedings is set forth below.

<u>DATE</u>	<u>PROCEEDINGS IN BANKRUPTCY</u>	<u>E-MAIL</u>
<u>2013</u>		
May 6	Chapter 7 Involuntary Petition filed	
<u>2014</u>		
May 9		Letter from Fustolo's counsel (Attorney Edmonds) to Patriot's counsel (Attorney Fencer) advising that a "whistleblower" claim had been filed with the IRS and SEC.
July 12		Client inquires whether Sloane could facilitate a "negative internet PR against individuals and businesses who may have attacked [client] either on or not on the internet? Example: distributing through the internet negative PR against an individual and/or company. I may have documents that are not on the internet that are negative to a 'bully' that I want to get on the internet in large volume."
Aug. 7-8	The Court allowed Plaintiff's motions to (1) extend time to object to discharge and (2) conduct 2004 Examination of various persons including Elisa Fustolo, Mr. Fustolo's wife. (Dkt. Nos. 161-62)	In an e-mail dated August 8, the Client advised Sloane that "[e]vents changed today. I do want to go forward with what we spoke about. How would we go forward?"
Aug. 14-16	On August 14, 2014, subpoenas were served upon Mr. Fustolo's father's and wife's bank accounts.	In an e-mail dated August 16, 2014, the Client reports that "[t]hese guys took an extremely unethical and aggressive action against my family and elderly father" and asked whether Sloane would be ready "on Monday to launch" additional, defamatory press releases.
Aug. 25		First blog published on WBI Blog: "John C. Howe, Westport, Ct. Hedge Fund Executive Investigated for Tax Fraud and SEC Violations"

Sep. 9	In September, the parties began negotiations concerning a motion to quash subpoenas issued to Mr. Fustolo's wife and father.	Client e-mails Sloane: "Looks like your work is working. Got a call the other day about a 'deal.' Before we go to the next level, I want to see if we can work out a deal."
Sep. 11		Second blog published on WBI Blog: "Alleged Tax Cheat John C. Howe Bullies Whistleblower in Boston's U.S. Bankruptcy Court."
Sep. 13		Client e-mails Sloane: "If we cannot settle with this person shortly, I will have to go to the next round and would ask for your services...."
Sep. 25		Client writes to inquire if Sloane can assist establishing "TWO new blog entities" to be used to be "populated" with a series of articles that "feed off the WBI articles... that keep the story alive. Client also advises of his interest to "do a snail mail campaign to his [Howe's] neighborhood, hedge funds, and others mailing copies of the articles that are on the web." Further, client states: "Can you get this done and, if so, how much? I ask because we are at a critical point in the negotiation where we are an annoyance but not a real threat. Thus, he [Howe] will not settle and continues to harass my family."
Sep. 29		In response to inquiry from Sloane as to whether client wants to proceed with two new blogs, Client responds: "The decision day will be Oct. 1. There is an ensuing event that Howe has to take by 9-30 against me. If he takes the action, the gloves are off. If not, they stay on. Please sit tight for a few more days."

Sep. 30	Patriot and another creditor file an Adversary Complaint against Debtor, Mr. Fustolo (Dkt. No. 218)	
Oct. 9		Sloane's Client writes: "They have not caved in and it looks like Round 2 is imminent. I have been traveling and focused on the response to their recent court filings against my family members and others. Stay tuned as the 'nuclear option' may be necessary. I hope you have the stomach for getting in the mud and getting dirty as this group is slime and has no moral code."

57. In an e-mail dated October 18, 2014, Sloane's Client acknowledges that the information he had published through the WBI Blogs was not accurate. In his e-mail, the Client admitted that the stories were written with a "slant of opinion" and that "[s]ome of the quotes could be challenged...." In an effort to provide the appearance of credibility to the admittedly inaccurate articles, the Client concludes by stating that "[i]f WBI is not firmed up as being legitimate, the rest false [sic] apart."

58. By late October, Sloane had grown concerned with the veracity of the information his client had provided for publication on WBI and declined the request to publish additional articles. In his last e-mail to Sloane on October 24, 2014, his client asked Sloane to "delete all email communications" between them. On November 6, 2014, one month before the commencement of the Florida Action, Sloane received an e-mail from "John Smith" stating: "This is a friend. I suggest you remove all previous communications from your prior jobs you worked on. please (sic) do not respond to this e-mail. good (sic) luck. Cheers."

**Sloane's E-mails Provide Further Proof That Mr. Fustolo Is The Mastermind Behind The Cyber-Bullying Campaign**

59. By letter dated October 14, 2014, attorneys representing Old Hill and Mr. Howe

sent a letter to Mr. Fustolo's counsel (Attorneys Nickless and Panos) advising that they were investigating the WBI Blog and would seek to hold the person(s) responsible for the defamatory and malicious publications responsible for their misconduct. Mr. Howe's and Old Hill's counsel also began contacting internet service providers and media outlets in an effort to have the defamatory articles removed.

60. In an October 17, 2014 e-mail to Sloane, his Client advises that “[t]hey have contacted each of the media outlets that have the articles and have had them block them.” In another e-mail sent later that day, the Client states, “[a]ccording to the lawyer’s letter, they are making allegations that WBI is not real....” The Client’s e-mail also describes, almost verbatim, the content of the October 14<sup>th</sup> letter sent to Mr. Fustolo’s counsel (Attorneys Nickless and Panos). This letter was private, and not part of the public record in this case.

61. Based on the foregoing, it follows that the Client obtained a copy of the October 14, 2014 letter from Mr. Fustolo’s Attorneys, Nickless or Panos, and that the “Client” is Mr. Fustolo.

#### **Absence of Any Credible Evidence Of An SEC Or IRS Investigation**

62. As noted, by letter dated May 9, 2014, Mr. Fustolo’s lawyer (Bruce Edmands) advised Patriot’s counsel that Mr. Fustolo had filed claims against Patriot “in accordance with the Internal Revenue Service Whistleblower statute” and had also filed a “notice” with the SEC identifying himself as a whistleblower in respect to Patriot. The letter also stated that Mr. Fustolo believed that Patriot and its principal, Mr. Howe, were using these bankruptcy proceedings “as a means of retaliating against [Mr. Fustolo] for reporting Patriot’s tax violation.” The letter is lacking any detail or description of the alleged tax fraud.

63. Despite the allegations of the May 9, 2014 letter, in proceedings before this Court

on December 3, 2014, the Debtor's counsel (David Nickless) advised the Court that “[n]o claim has been filed. No complaint has been filed.”

64. Neither Patriot nor Mr. Howe have been notified by the IRS, SEC, or any other government agency that they, or any related persons, are under investigation for tax evasion, violating of the rules of regulations of the SEC, or violating any other statute, rule, or regulation.

65. Neither Patriot, nor Mr. Howe have been able to confirm that the IRS, SEC, or any other government agency is investigating them for tax evasion, violating of the rules of regulations of the SEC, or any other statute, rule, or regulation.

66. Despite the allegations of the May 9, 2014 letter, at deposition, Mr. Fustolo was unable to: (a) identify the date he filed the complaint, other than to say that it was sometime between January 1 and May 9, 2014; (b) describe the nature of the violation alleged in the complaint that he allegedly drafted; or (c) provide copies of any of the materials he allegedly transmitted to the IRS and SEC.

67. At his deposition, Attorney Edmands – the author of the May 9<sup>th</sup> letter – was also unable to substantiate that a claim(s) had been filed with the IRS or SEC. Attorney Edmands testified that: (a) he had never seen (nor did he have) any documents supporting the alleged claim(s); (b) Edmands had been “consulted” about a claim, but did not prepare or submit a claim; (c) he had “seen” a copy of the IRS complaint, but was not able to describe its content; and (d) he had never seen any notice to the SEC.

**December 3, 2014 Hearing Before the Court (Feeney, J.)**

68. At a hearing on various motions held before the Court (Feeney, J.) on December 3, 2014, Mr. Fustolo's counsel represented to the Court that he had asked his client about his participation in the incidents of cyber-bullying detailed herein, and that Mr. Fustolo had denied

any involvement. Based upon the foregoing allegations, Mr. Fustolo's representations to this Court, through counsel, were false.

69. When asked about Mr. Fustolo's involvement in the cyber-bullying, Attorney Nickless responded to the Court as follows:

- “I will represent to the Court that I have asked my client whether he did any of these postings, whether he provided any of that information, had the postings, and his answer has been no.” (Tr. p. 16).
- “[M]y client has informed me that he directed no posts.” (Tr. p. 17).
- “I object to it because there is no evidence before this Court, and as far as I know, Mr. Fencer, nor his office, nor the Trustee’s office, nor anybody else has any evidence that my client has done – made any of these postings.” (Tr. p. 19).

70. The evidence set forth above directly implicates Mr. Fustolo in the cyber-bullying campaign, suggests that he mislead his lawyer about his involvement, and that Mr. Fustolo affirmatively attempted to mislead this Court.

#### **Damage to Plaintiff**

71. Plaintiff has been damaged by the defamatory statements in the operation of its business.

72. Plaintiff has been approached by potential clients with the information included in the numerous postings on the Internet and have been forced to defend itself against defamatory statements of defendants.

73. The exposure of names, pictures and identifying information of Mr. Howe's family and business associates, and especially the suggestion that his daughter's wedding “might have a surprise visitor,” posted November 12, 2014 on [www.complaintwire.org](http://www.complaintwire.org), has caused fear and anxiety to Mr. Howe's family.

## V. CAUSE OF ACTION

### COUNT I (INJUNCTIVE RELIEF UNDER SECTION 105)

74. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1 through 73 as if fully set forth herein.

75. Section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

76. Plaintiff is entitled to an injunction under section 105(a) of the Bankruptcy Code, enjoining defendants from causing defamatory, disparaging, libelous, harassing, unlawful, and/or false statements to be posted or published on the Internet or on or through any other medium, and ordering, *inter alia*, defendants to take all actions to remove such statements from the Internet.

77. Defendants’ bad faith, vexatious, and intimidating conduct has harmed, and, unless enjoined, will continue to harm, plaintiff by, among other things, interfering with plaintiff’s rights as a creditor, including plaintiff’s rights under Bankruptcy Code 303(b), 523(c), and 727(c); subverting and impeding the integrity of the bankruptcy process; and intimidating Mr. Howe and his family.

78. The harm that continues to befall plaintiff if injunctive relief is not granted greatly outweighs the harm that defendants may allegedly incur if the Bankruptcy Court enters an injunction.

79. The entry of injunctive relief under the facts and circumstances of this case is in the public interest.

80. For the reasons stated herein, plaintiff is entitled to injunctive relief pursuant to Bankruptcy Rule 7065.

## **VI. REQUESTED RELIEF**

**WHEREFORE**, Plaintiff respectfully request that this Court:

(1) As to Count I, in accordance with Bankruptcy Code 105(a), Bankruptcy Rules 7001(7) and 7065, and Rule 65 of the Federal Rules of Civil Procedure, enter a preliminary and permanent injunction ordering:

A. That Mr. Fustolo, his agents, officers, members, managers, employees, representatives, and any person acting on his behalf (Restrained Parties) take all actions necessary to remove the defamatory, disparaging, libelous, harassing, unlawful, or false statements about plaintiff, including, without limitation, those statements found at the URLs identified in Section (1)(C) below (Statements) from the Internet, including, without limitation, personally removing the Statements from the Internet;

B. That the Restrained Parties take all actions necessary to request that the following Internet sites remove the Statements from their websites:

[www.ripoffreport.com](http://www.ripoffreport.com);  
[www.complaints.com](http://www.complaints.com);  
[www.complaintsboard.com](http://www.complaintsboard.com);  
[www.pissedconsumer.com](http://www.pissedconsumer.com);  
[www.complaintwire.org](http://www.complaintwire.org);  
[PRNation.org](http://PRNation.org);  
[www.youtube.com](http://www.youtube.com);  
[www.vimeo.com](http://www.vimeo.com); and  
[www.dailymotion.com](http://www.dailymotion.com).

C. That the Restrained Parties take all actions necessary to remove the Statements from the indices of all Internet search engines, including, without limitation, Google, Yahoo!, and Bing (Internet Search Engines). Such actions shall include requesting that the Internet Search Engines remove URLs containing unlawful content from their search indices. The URLs that contain such unlawful content include:

1. <http://whistleblowersinternationalblog.blogspot.com/>
2. <http://www.releasewire.com/press-releases/john-howe-and-old-hill-partners-accused-of-harrassment-intimidation-and-retaliation-against-us-whistleblower-in-howes-tax-fraud-and-sec-fraud-case-539864.htm>
3. <https://www.prnation.org/old-hill-partners-patriot-group-and-westports-john-c-howe-embroiled-in-another-sec-fraud->

investigation/

- 4. <https://www.prnation.org/john-howe-and-old-hill-partners-accused-of-harassment-intimidation-and-retaliation-against-u-s-whistleblower-in-howes-tax-fraud-and-sec-fraud-case/>
- 5. <https://www.prnation.org/old-hill-partners-and-john-howe-under-investigation-by-the-irs-and-sec/>
- 6. <https://www.prnation.org/john-howe-old-hill-partners-accused-harassment-intimidation-retaliation-u-s-whistleblower-howes-tax-fraud-sec-fraud-case/>
- 7. <https://www.prnation.org/john-c-howe-westport-resident-old-hill-partners-llc-investigated-tax-fraud-securities-law-violations/>
- 8. <https://www.prnation.org/old-hill-partners-and-john-howe-under-irs-and-sec-investigation/>
- 9. <https://www.prnation.org/john-c-howe-westport-resident-and-old-hill-partners-llc-are-being-investigated-for-tax-fraud-and-securities-law-violations/>
- 10. <https://www.prnation.org/alleged-tax-cheat-john-c-howe-bullies-whistleblower-bostons-u-s-bankruptcy-court/>
- 11. <https://www.prnation.org/john-c-howe-westport-ct-hedge-fund-executive-investigated-tax-fraud-sec-violations/>
- 12. <https://www.prnation.org/john-c-howe-westport-resident-patriot-group-llc-investigated-tax-fraud-sec-violations/>
- 13. <http://www.wdam.com/story/26343561/john-howe-and-old-hill-partners-accused-of-harrassment-intimidation-and-retaliation-against-us-whistleblower-in-howes-tax-fraud-and-sec-fraud-case>
- 14. <http://www.wnem.com/story/26343561/john-howe-and-old-hill-partners-accused-of-harrassment-intimidation-and-retaliation-against-us-whistleblower-in-howes-tax-fraud-and-sec-fraud-case>
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D. That, because it is foreseeable that the Statements will be posted or published on webpages in addition to those listed in Paragraph C, the

Restrained Parties take all actions, now and in the future, necessary to request that those webpages remove the Statements from their websites;

- E. That, because it is foreseeable that the Statements will be posted or published on webpages in addition to those listed in Paragraph C, the Restrained Parties take all actions, now and in the future, necessary to remove the Statements from the indices of all Internet Search Engines;
- F. That, if any of the Restrained Parties publish further defamatory, disparaging, libelous, harassing, or false statements about plaintiff on the Internet or on or through any other medium, those statements will be deemed to be unlawful, and that the statements be removed from (i) the website on which the statement was posted or published and (ii) any Internet Search Engines;
- G. That, within 48 hours of the entry of the Court's order, the Restrained Parties disclose to plaintiff the identity, by name, mailing address, e-mail address, telephone number, website, and IP address, as applicable, of all individuals and entities who participated in, funded, or are in any way responsible for, posting the Statements, publishing the Statements, or causing the Statements to be published;
- H. That, within 48 hours of the entry of the Court's order, the Restrained Parties identify, by claim number and filing date, any and all purported whistleblower claims submitted to the IRS, SEC, or any other government agency;
- I. That, within 48 hours of the entry of the Court's order, the Restrained Parties provide to plaintiff copies of any and all whistleblower claims submitted to the IRS, SEC, or any other government agency;
- J. That the Restrained Parties take all actions necessary to preserve all evidence concerning the subject matter of this adversary proceeding, including, without limitation, the preservation of all hard copy and electronic documents, servers, e-mails, computer files, smartphone and tablet data, text messages, and social media content;
- K. That, within 72 hours of the entry of the Court's order, the Restrained party deliver to plaintiff's counsel and/or provide plaintiffs' counsel access to all electronic storage devices for forensic examination, including, without limitation, all computers, laptops, servers, computer files, smartphones, and tablets; the delivery of which shall be governed by a protocol to be entered by the Court;

L. That, within 72 hours of the entry of the Court's order, the Restrained Parties deliver to plaintiffs' counsel all log-in credentials, including, without limitation, user names and passwords, for each of the Restrained Parties' e-mail and social media accounts; the delivery of which shall be governed by a protocol to be entered by the Court;

(2) In accordance with Bankruptcy Code 105(a), Bankruptcy Rules 7001(7) and 7065, and Rule 65 of the Federal Rules of Civil Procedure, enter a preliminary and permanent injunction ordering:

A. That the Restrained Parties be preliminarily and permanently enjoined from causing the Statements to be posted or published on the Internet or on or through any other medium;

(3) Impose sanctions against Mr. Fustolo including, if appropriate, a finding of contempt and an order that Mr. Fustolo surrender his passport, and award such other damages and relief as the Court deems just.

Respectfully submitted,  
THE PATRIOT GROUP, LLC

By its attorneys,

/s/ Gary R. Greenberg  
Gary R. Greenberg (BBO # 209420)  
John F. Farraher, Jr. (BBO #568194)  
Zachary Kleinsasser (BBO #664291)  
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One International Place  
Boston, Massachusetts 02110  
Telephone: 617-310-6000

DATED: January 13, 2015

**VERIFICATION**

I, John C. Howe, am the Chief Executive Officer of Plaintiff The Patriot Group, LLC. I have read the Verified Complaint and know the contents thereof, and the facts alleged therein, are true based upon the plaintiff's books and records, pleadings and other materials obtained in the Florida Action, and my own personal knowledge, except for those alleged upon information and belief, and as to those, I believe them to be true.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 13 DAY OF JANUARY, 2015.

/s/ John C. Howe  
JOHN C. HOWE  
Chief Executive Officer